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REMARKS

Claims 1-16 were present in the application when filed. In response to a restriction requirement, Applicants elected the invention of Group 4 (claim 6) and presented new claim 17. Claims 1-17 were pending, therefore with claims 1-5 and 7-17 withdrawn from consideration. In response to an Office Action dated February 28, 2005, claims 1-5 and 7-17 were canceled. Claim 6 was amended in response to an Office Action dated September 22, 2005. Claim 6 remains pending in the application.

Rejection under 35 U.S.C. §112, second paragraph

Claim 6 is rejected under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

MPEP §2173.02 discusses clarity and precision in claims. MPEP 2173.02 states:

The examiner's focus during examination of claims for compliance with the requirement for definiteness of 35 U.S.C. 112, second paragraph is whether the claim meets the threshold requirements of clarity and precision,.....

The essential inquiry pertaining to this requirement is whether the claims set out and circumscribe a particular subject matter with a reasonable degree of clarity and particularity. Definiteness of claim language must be analyzed, not in a vacuum, but in light of:

- (A) The content of the particular application disclosure;
- (B) The teachings of the prior art; and
- (C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

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Applicants note that the claim language should be analyzed in light of the teachings of the prior art and the claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art.

Claim 6 is amended above to clarify that the isolated cytotoxic cell of the invention specifically recognizes human sperm protein 17 (Sp-17) as opposed to Sp-17 in other species. As previously discussed, the designation Sp-17 is not a designation that varies from laboratory to laboratory, but a conventional designation of an antigen present on sperm cells that is immediately recognized by those of skill in the relevant art. Additionally, the amino acid sequence of human Sp-17 was reported by Lea *et al.* and an entry of the amino acid sequence information in the NCBI database as accession number Q15506 made in 1996. Thus, based on the availability of the amino acid sequence of human Sp-17 as of the filing date of the present application, one of skill, in attempting to generate a cytotoxic cell directed to Sp-17 in accordance with Applicants' invention, would have had a definite comprehension of the structure of that antigen.

Applicants respectfully submit that to further limit the antigen to a specific amino acid sequence, for example, the sequence of Lea *et al.*, would not preclude the use by potential infringers of later identified polymorphisms of Sp-17 that occur in the population. Applicants' patent protection would thereby be rendered meaningless.

In view of the above amendment, Applicants submit that they have clearly set out the metes and bounds of the invention, and that the claims cannot be properly rejected under §112 as indistinct or indefinite. Withdrawal of the rejection under 35 U.S.C. §112, second paragraph is respectfully requested.

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For the foregoing reasons, claim 6 is believed in condition for allowance and such action is respectfully requested. Should the Examiner require clarification of any of the above, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

Respectfully submitted,



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